

SUBJECT: Support for Front-Line Procurement Professionals Forum

TO: All DCMC Associates

The tenth meeting of the Front-Line Procurement Professionals Forum was held on September 5, in Washington D.C. The major topic of this meeting was to review, discuss and comment on the proposed FAR Parts 11, 12, and 13 rewrite. These proposed FAR rewrite discussions allowed the Forum to make comments from a users perspective which would then be used to make corrections prior to submitting the proposed FAR rewrite for legislative approval.

As an update, the District Court jurisdiction over "Bid Protest" has been eliminated. Only the Federal Court will have jurisdiction in Bid Protests. The FAR Council agreed to a proposed rule revising FAR Parts 5, 11, 12, 13, and 52 to prescribe special simplified procedures in the FAR for the acquisition of certain commercial items at amounts above the simplified acquisition threshold but not greater than \$5 million. The proposed rule is part of Section 4202 of the Federal Acquisition Reform Act of 1996.

Much of government procurement involves the purchase of commercial items. For this reason, there is great emphasis on area of the FAR. The rewritten language is more instructive rather than directive. The Contracting Officer is allowed greater discretionary latitude in his procurement procedures. Greater emphasis is placed on "Past Performance". One of the basic concepts used is "If it is not specifically excluded, it is considered as included". The new rewritten FAR will be specific in what is excluded.

The government is building on the corporate competitiveness in the federal market. Past performance is such a large consideration factor that Federal Computer Week has published a joint study by Federal Computer Week and International Data Corporation which rates large corporations by past performance. This is two parts, Part I, Federal Integrator and Reseller Past Performance Ratings, and Part II, Federal Hardware and Software Supplier Competitiveness Ratings. Part I describes and analyzes the results of the first survey, covering the past performance of 25 leading federal integrators and resellers. Part II describes and analyzes the results of the second survey, covering the past performance of 26 leading federal hardware and software suppliers. Together, these studies indicate the overall effectiveness of industry in providing information technology products and services to the federal government. They document a significant experiment in practical and systematic measurement of federal contractor past performance.

Another aid to assist the Contracting Officer will be the "Defense Acquisition Deskbook". The Defense Acquisition Deskbook is an automated reference tool that provides acquisition information for all DoD components across all functional disciplines. This reference tool is an easy to use system that provides access to the most current mandatory directives, discretionary guidance, practical advice, and software tools. The Defense Acquisition Deskbook originated from an Acquisition Reform Initiative to reduce mandatory directives while assisting program managers in making informal decisions. The Defense Acquisition Deskbook is the primary tool for the entire DoD acquisition work force. This deskbook can be run from a CD-ROM drive or a hard drive, depending on your particular circumstances.

The streamlined acquisition of commercial items has brought about some important things that you should know.

- * Market research is required for all acquisitions. It is essential to determine commercial market capabilities and commercial practices that are customary to the respective industry/service sector.
 - * Agency needs descriptions must be clear and complete so that suppliers know which commercial product and/or services to offer.
 - * Agency needs must be stated in terms of: a) function to be performed, b) performance required, and c) essential interfaces.
 - * Market research is a team responsibility. Team membership will depend on the circumstances of the procurement.
 - * Commercial items and services have a nongovernmental purpose and have been offered to the general public.
 - * Commercial items may be undergoing technology evolution, or require modification to meet the government needs.
 - * Use the definition of commercial item, the description of agency need, and the results of market research to determine whether FAR Part 12 applies to the acquisition.
 - * The SF 1449, Solicitation/Contract/Order for Commercial Items, shall be used for the award of contracts for commercial items. (No exception is provided.)
 - * FAR Part 12 does not use the Uniform Contract Format and includes new streamlined commercial clauses and provisions, an optional combined synopsis/solicitation and an extremely flexible process.
 - * Contracting officers shall use customary commercial practices, such as relying on contractor's inspection system, acquiring minimal data rights, relying on past performance in the evaluation process, using product literature and samples for the technical evaluation, using buyer financing, and relying on implied warranties.
 - * Contracting officers will not burden the process with unnecessary government-unique terms and conditions.
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- * use of these streamlined procedures will reduce the administrative burden

of government contracts, increase competition by increasing the number of potential sources available to meet the government's needs and reduce the cost of supplies and services

The discussion was very detailed at times. It showed the FAR Rewrite Team some of the concerns and problems that the contracting officers encounter in their jobs. The main emphasis that the forum would like in the new FAR is to allow greater contracting officer's judgment and business decisions. The team commented that the discussions were very helpful in their task of rewriting the FAR.

I would like to solicit suggestions for FAR changes/improvement from DCMC associates that may be brought to the attention of the forum and the FAR rewrite team. I am sure that there are many concerns, comments and suggestions regarding possible FAR and other regulatory changes and improvements that you would like discussed. Please, let me hear from you. You can contact me at 410-339-4770, DSN 444-4770, Fax 410-339-4965, or via email at **etillman@balt8.dcmds.dla.mil** Please forward any correspondence to:

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